

PATENT APPLN. NO. 10/521,439  
RESPONSE UNDER 37 C.F.R. §1.111

PATENT  
NON-FINAL

IN THE DRAWINGS:

Please add the new sheet of drawings attached to this response  
to the application.

REMARKS

*Specification*

The disclosure is objected to because the Office has noted that "Japanese Patent Publication No. 3-54591" identified on page 14, line 7 from the bottom of the page, does not appear to be a valid publication number or reference number.

The specification has been amended to identify the publication which discloses a dehydrating mechanism as described in the paragraph beginning on page 14, line 8 from the bottom of the page, as Japanese Patent No. 1692872.

*Drawings*

The Office is objecting to the drawings because the drawings do not show the fluid pumps and pump components recited in the limitations that were added to the claims in the Submission under 37 C.F.R. § 1.114(a) that was filed with the RCE of this application on April 30, 2008.

A new sheet of drawings is attached to this response. The new sheet of drawings shows the fluid pumps and pump components recited in the limitations that were added to the claims in the Submission under 37 C.F.R. § 1.114(a). Figs. 3 - 5 correspond to dehydrating mechanisms (1) - (3) recited in claim 1.

The specification has been amended to describe the new

drawings. The amendments to the specification are believed to be supported by the descriptions of the examples of the dehydrating mechanism 6 beginning on page 13, line 3 from the bottom of the page.

The Office is respectfully requested to advise whether the new sheet of drawings and amendments to the specification are acceptable.

*Claim Rejections - 35 USC § 102*

Claims 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobsen et al., U.S. Patent No. 5,141,493 ("Jacobsen"). The Office identifies Jacobsen as disclosing a peritoneal dialysis system (Figures 1A-1B) comprising each of the elements of the peritoneal dialyzer of the present invention including a means (196, 160, 28) capable of measuring a conductive osmotic agent concentration in peritoneal dialysate. The Office describes such means as "provided in the peritoneal dialysate circuit on the side of the end at which the catheter (12) is connected for removal of water in the peritoneal dialysis circuit (cols 4-5) using microprocessor (220) controlled pumps (192, 16, 72) (Figures 1A-1B) with a calculating unit (cols 6-7) (Figure 1); and wherein the hemodialysate outflow from the dialyzer will be larger since the hemodialysate circuit removes water from the main

patient circuit via the pump (16, 192) and the pressure valve (36) (col 4, ln 55-70)".

The position of the Office is not understood. Means (196, 160, 28) of Jacobsen do not measure the osmotic agent concentration in the peritoneal dialysate taken out from a patient. In Jacobsen, 28 (in Figure 1) and 196 (in Figure 2) are pressure sensors, and 160 (in Figure 2) is a conductivity probe. "Means" 28 and 196 detect fluid pressure and 160 detects the electrolyte concentration in the solution. Therefore, the parameters detected or measured by the components in Jacobsen identified by the Office are completely different from those of the present invention.

Removal of the 35 U.S.C. § 102 rejection is in order and is respectfully requested.

*Claim Rejections - 35 USC § 103*

Claims 1-2 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen in view of Karoor et al., U.S. Patent Application Publication No. US 2003/0105424. Jacobsen is identified as meeting the limitations of the rejected claims except for the multi-pump hemodialysate circuit. Karoor is cited as teaching the multi-pump hemodialysate circuit.

Jacobsen does not disclose a peritoneal dialyzer which meets each of the limitations of claim 1 of the present application other

than the multi-pump hemodialysate circuit. Specifically, Jacobsen does not disclose a peritoneal dialyzer which includes a means capable of measuring an osmotic agent concentration in peritoneal dialysate provided in the peritoneal dialysate circuit on the side of the end at which the catheter is connected with respect to the dialyzer as recited in claim 1. As noted above, the means 192, 16 and 72 identified by the Office do not measure an osmotic agent concentration in peritoneal dialysate and are not provided in the peritoneal dialysate circuit on the side of the end at which the catheter is connected with respect to the dialyzer.

Therefore, the proposed modification of Jacobsen will not result in a peritoneal dialyzer which meets each of the elements of the rejected claims.

Removal of the 35 U.S.C. § 103(a) rejection is also in order and is respectfully requested.

The foregoing is believed to be a complete and proper response to the Office Action dated August 22, 2008, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely

PATENT APPLN. NO. 10/521,439  
RESPONSE UNDER 37 C.F.R. §1.111

PATENT  
NON-FINAL

filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik  
Reg. No. 25,401

Crystal Gateway 3  
Suite 1105  
1215 South Clark Street  
Arlington, VA 22202  
Tel: (703) 412-9494  
Fax: (703) 412-9345  
RJK/KTK/esc